



Service, Education, Advocacy

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Good Afternoon, Chairman and members of the Judiciary Committee. My name is Domenique Thornton, Esq. I am the Director of Public Policy for the Mental Health Association of CT, Inc., (MHAC). MHAC is a 100-year old private non-profit dedicated to service, education and advocacy for people with mental health disabilities. **Thank you for the opportunity to speak in opposition to committee bills on your agenda today. H.B. No. 6648 (RAISED) AN ACT CONCERNING A CLINICAL ASSESSMENT OF FIRST-TIME OFFENDERS and H.B. 6647 AN ACT CONCERNING THE APPOINTMENT OF GUARDIANS AD LITEM TO ASSIST DISABLED INDIVIDUALS IN COURT PROCEEDINGS.**

House Bill 6648 is unlike jail diversion because it is involuntary and requires overly broad police discretion to send people for psychiatric assessment at a hospital thereby creating an additional deprivation of liberty for persons who are perceived by the officers to have a mental illness. By so doing, the state would be using its police powers to deprive an individual of their right to liberty without the right to due process right guaranteed by the state and federal constitutions. These proposals may be very well intended and they appear to resemble jail diversion. MHAC strongly supports jail diversionary programs. However, without informed consent of the individual or the protections of a prior hearing, this proposal may well be discriminatory and may also violate the ADA. This bill would leave it up to the police officer's discretion to make the determination if the arrestee is an individual who "[an] officer reasonably believes has psychiatric disabilities" thereby empowering the police officer, who is a lay person not a clinician to make a broad assessment if that person has a psychiatric disability. How many unnecessary visits to Connecticut's already overly taxed Emergency Departments of other

psychiatric facilities will now fall within the arrest powers of the police? The criterion is constitutionally vague as it is overly inclusive and further deprives an arrestee of liberty through involuntary commitment to an ER. This is a deprivation of liberty in addition to the arrest.

Similarly, I would also like to express my opposition to HB 6647, An Act Concerning the Appointment of Guardians *ad Litem* to Assist Disabled Individuals in Court Proceeding because it is redundant of laws that already in place; it makes the appearance of disability the equivalent of incompetence; it undermines the attorney's responsibility under Rule 1.14 and is inconsistent with the State's emphasis on recovery and self-determination.

The bill amends Section 45a-132 of the General Statutes, the provision that permits a probate or superior court judge or a family support magistrate to appoint a guardian ad litem for "any minor or incompetent person, undetermined or unborn person" if it appears to the judge that such individuals "have or may have an interest in the proceedings, and that one or more of them are minors, incompetent persons, persons undetermined or unborn at the time of the proceeding." It adds "a person with a disability" to a very discrete list of persons defined as legally incompetent.

For the purposes of this chapter the term "person with a disability" means any person who has a physical, mental, emotional or other disability or disfunction which constitutes a significant obstacle to such person's ability to function normally in society and includes those persons defined as developmentally disabled under Public Law 94-103 and any subsequent amendments thereto. Conn. Gen. Stat. Sec. 46a-8.

How is that a person with a disability determined to be incompetent? Again, without consent or a voluntary proceeding with due process protection it eliminates that person's right to speak and make decisions for them in the case. Thus, the bill discriminates against people with disabilities in a legal proceeding. It would allow any person with a disability to be deemed legally incompetent or a non-entity for the duration of the case. Connecticut already has procedures in place for the appointment of legal representatives when necessary as determined by appropriate means of a hearing with due process protections.

The bill also is contrary to Connecticut's well considered policy to presume competence and thereby afford legal rights to all, and promote the full participation of persons with disabilities in society thereby violating the Americans with Disabilities Act and the Connecticut Constitution's prohibition against discrimination against people with disabilities.